

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MOHAMED JOHN AKHTAR and LA BUCA
RESTAURANT, INC. d/b/a SWING 46 JAZZ
AND SUPPER CLUB,

Plaintiffs

-against-

23-CV-6585 (JGLC) (VF)

ERIC M. EISENBERG and JOHN AND JANE
DOES ONE THROUGH THIRTY,

Defendants

**ERIC M. EISENBERG'S LETTER MOTION TO, *INTER ALIA*, ADDRESS
INACCURACY IN MEMO ENDORSEMENT (D.I. 149) STEMMING FROM FALSE OR
MISLEADING SUBMISSION BY PLAINTIFFS (D.I. 143)**

Dear Magistrate Judge Figueredo,

I write to alert Your Honor, the parties, and the public of an inaccuracy in Your Honor's memo endorsement occurring at D.I. 149, p.2 (endorsement reproduced below without signature):

**HON. VALERIE FIGUEREDO
UNITED STATES MAGISTRATE JUDGE**

Dated: 3/19/2025

The document filed at ECF Nos. 126 and 129 is under permanent seal, and the Clerk of Court is directed to maintain the seals on those docket entries. A publicly available redacted version of the document was filed at ECF No. 143.

In fact, the document filed by Plaintiffs at D.I. 143, while apparently a redacted version of D.I. 126, does not correspond to a redacted version of D.I. 129. That is, D.I. 126 and D.I. 129, while largely similar, are different documents containing different text (for example, dates) at least at pages 1 of 63 and 24 of 63. Especially as Plaintiffs' misdating of documents has become an issue during this case, the differences are of some import.

I understand that Your Honor's misunderstanding that D.I. 126 and D.I. 129 were the same document (when they are not) is likely in no way Your Honor's fault, but rather a result of the misleading docket text Plaintiffs associated with D.I. 143 (reproduced below):

RESPONSE to Motion re: [137] LETTER MOTION to Seal *Improperly Filed Documents Containing Information Requiring Redaction (D.I. 126 and D.I. 129)* addressed to Magistrate Judge Valerie Figueredo from Eric M. Eisenberg dated March 12, 2025. Redacted document for ECF Nos. 126 & 129. Document filed by Mohamed John Akhtar, La Buca Restaurant, Inc... (Iannarelli, Anthony)

Thus, it appears that as a result of Plaintiffs' filing of a single document falsely and/or misleadingly labeled as, *inter alia*, "Redacted document for ECF Nos. 126 & 129" this Court was misled.

Unfortunately, Plaintiffs or their counsel, in addition to past false or misleading filings, and the instant false or misleading D.I. 143 filing discussed in this letter, have recently made a number of additional false or misleading filings or communications – which I will endeavor to write about in separate letter(s). I understand that I have a professional obligation to raise, to the Court, these various issues of false or misleading submissions. NY Rules of Professional Conduct (as amended though June 10, 2022), at Rules 1.15(b)(2) (*re* material impairment due to lawyer's physical or mental condition), 4.1 (*re* truthfulness), 8.3 (*re* obligation to report misconduct to tribunal), 8.4(c) (*re* dishonesty, fraud, deceit and misrepresentation). Nonetheless, the time and energy required for me to constantly police the frequently false or misleading submissions of Plaintiffs' counsel – who suffers from a physical and/or mental condition that appears to materially impair his ability to, *inter alia*, relay the truth – is substantial, interfering with my daily activities and making it more difficult for me to address more substantive issues in this case.

With respect to the instant matter involving D.I. 126, D.I. 129, D.I. 143, and D.I. 149, I respectfully request that this Court (1) appropriate correct the inaccuracy in the above D.I. 149 Memo Endorsement for the benefit of the parties and the public, and (2) particularly with respect to Plaintiffs' or their counsel's misleading filing and/or docket text at D.I. 143, issue such other and further relief as may be just and proper.

Thank you kindly for your consideration of this matter.

Dated (and executed in):
March 19, 2025 (Miami, Florida)

Respectfully submitted,

s/ Eric Eisenberg
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cc: all parties on ECF